



PATENT
Attorney Docket No. 11128/47602

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Serial No. : 10/815,362 Confirmation No. 8238
Applicant(s) : KORODI et al. Customer No. 7590
Filed: : Apr. 1, 2004
Art Unit : 1625
Title: : AMORPHOUS SIMVASTATIN CALCIUM AND METHODS FOR THE
PREPARATION THEREOF
Examiner : Bernard Dentz

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

DECLARATION UNDER RULE 132

I, Adrienne Kovácsné-Mezzei, of 4032 Debrecen, Károli Gáspár str.252., Hungary, hereby declare as follows:

1. I received a Master degree in Chemistry from University KLTE , Debrecen in 1980. I have been working in the field of pharmaceutical chemistry for 19 years. I have been working for Teva for 8 years, where I am currently physical analytical project coordinator. I am knowledgeable about the use of solid state characterization techniques to identify pharmaceutical compounds.

2. I have read and understood the specification and claims of the above-captioned patent application entitled "Amorphous Simvastatin Calcium and Methods for the Preparation Thereof."

3. I have read and understood the Office Action dated Oct. 26, 2005 and the cited U.S. Patent Publication No. 2005/0119343 (Tillyer et al.) (hereinafter referred to as "*Tillyer*"), particularly the portions pertaining to the solid state characterization of the compound referred to therein as "Compound I," including Figs. 1, 2, 3, 8, and 9.

4. Under x-ray powder diffraction (XRPD), an amorphous substance should produce a near featureless pattern, such as in Fig. 1 of the above-captioned patent application. The XRPD pattern of Compound I in *Tillyer*, as represented in Figs. 3 and 9, has sharp peaks at approximately 13.1-13.2° and 14.5-14.6 ° 2 theta, indicating that Compound I is at least partially crystalline. This is consistent with the numerous characterizations in *Tillyer* of Compound I as "crystalline."

5. Under differential scanning calorimetry (DSC), an amorphous substance should produce no, or very broad endothermic melting peaks, such as in Fig. 3 of the above-captioned patent application. The DSC of Compound I in *Tillyer*, as represented in Figs. 2 and 8, produces relatively sharp endothermic melting peaks, indicating that Compound I is at least partially crystalline.

6. Applying solid state NMR, an amorphous substance should produce broad peaks. The solid state NMR spectrum of Compound I in *Tillyer*, as represented in Figs. 4 and 6, has relatively sharp peaks, indicating that Compound I is at least partially crystalline. This is consistent with the numerous characterizations in *Tillyer* of Compound I as "crystalline."

7. Based on the full disclosure of *Tillyer*, I conclude that one of ordinary skill in the art would understand that Compound I of *Tillyer* is at least partially crystalline and not the amorphous simvastatin calcium salt claimed in the above-captioned patent application.

8. I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made

are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Dated: 12 April, 2006

Signed Adrienne Kovácsné-Mezei
Adrienne Kovácsné-Mezei